

## **MINUTES**

### **MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON FINANCE**

**Call to Order:** By **CHAIRMAN BOB KEENAN**, on March 21, 2001 at 5:15 P.M., in Room 317 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Bob Keenan, Chairman (R)  
Sen. Ken Miller, Vice Chairman (R)  
Sen. Tom A. Beck (R)  
Sen. Chris Christiaens (D)  
Sen. John Cobb (R)  
Sen. William Crismore (R)  
Sen. Greg Jergeson (D)  
Sen. Royal Johnson (R)  
Sen. Bea McCarthy (D)  
Sen. Arnie Mohl (R)  
Sen. Linda Nelson (D)  
Sen. Debbie Shea (D)  
Sen. Corey Stapleton (R)  
Sen. Bill Tash (R)  
Sen. Jon Tester (D)  
Sen. Mignon Waterman (D)  
Sen. Jack Wells (R)  
Sen. Tom Zook (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Prudence Gildroy, Committee Secretary  
Jon Moe, Legislative Fiscal Division

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted:

Executive Action: SB 338; SB 176; SB 289; SB 500

**{Tape : 1; Side : A}**

**EXECUTIVE ACTION ON SB 338**

**CHAIRMAN BOB KEENAN** explained that SB 338 was the bill to increase the poverty level for CHIP.

**Discussion:**

**SEN. CHRIS CHRISTIAENS** noted that the effect of the amendment was to keep CHIP eligibility at 150 percent of poverty. He asked if there was other money available. **CHAIRMAN KEENAN** advised that his intention was to use every dime that was available. He said that in the interim it was found that 100 percent general fund money was being spent for services that were 100 percent CHIP eligible and subject to an 80/20 match. That helped with the supplemental and led toward the children's Mental Health Basic Plan. Some DD services are being provided with 100 percent general fund expenditures that could also be CHIP eligible with an 80/20 match. He said he had no intention of reverting CHIP money back to the federal government. He wanted to make sure that the services were maximized to those kids that were eligible at the 150 percent level. He thought the bill might need to be amended further in the process and if that doesn't work, the 150 percent would be negotiable.

**Motion:** **SEN. KEENAN** moved that **SB 338 DO PASS.**

**Motion:** **SEN. KEENAN** moved that **AMENDMENT TO SB 338 (SB033801.ajm)** **BE ADOPTED. EXHIBIT(fcs64b01)**

**SEN. MIGNON WATERMAN** wondered if there could be language to increase the percentage if there were funds available. She was concerned about leaving money on the table. **CHAIRMAN KEENAN** thought a HB 2 amendment was a possibility. **Mary Dalton, DPHHS,** asked if DD would put up the general fund match and if the federal CHIP program would be used to match that. **CHAIRMAN KEENAN** said that would work. He said he was trying to save the 80 percent general fund money. **Ms. Dalton** said that had been done on an interim basis before in Medicaid. She said she had excess federal in the grant, but didn't have any general fund in the grant. She only had enough to match the kids that are in the program. Beyond giving the language authority needed to draw down the federal match, if it was just to match their general fund she said they were fine and the committee could do whatever it wished with assets or percentage. **SEN. WATERMAN** asked her if the committee adopts the amendment and the percentage is left at 150 percent, if she was reasonably confident that they could draw down and spend all the federal money in the next biennium. **Ms. Dalton** said the CHIP rolling match rolls for three years. When they originally looked at funding the mental health services

plan, and going to 175 percent of poverty, they wouldn't actually hit the end of the grant. She said they would revert a small amount at the end of ten years. She said they were not planning on losing any money in the next biennium because they will be using last biennium's money first and they will continue to do that. **SEN. WATERMAN** said there would be a risk this biennium if the money was not drawn down. **Ms. Dalton** said that was correct but they had a plan to be able to draw it down. She thought they would be able to use the money in the current biennium and not lose it. **SEN. WATERMAN** asked if that would be by staying at 150 percent. **Ms. Dalton** said she could not say because it depended on the actions of the committee in HB 2. She understood that the assets test was still in HB 2 in FY 2003 and the funding for a CHIP increase has not been restored in 2003. **SEN. WATERMAN** suggested discussing that in conjunction with the bill rather than in HB 2, as to whether there was a way to use the assets test bill in the next biennium or whether to spend money in CHIP. It seemed to her that the decision would affect what is done with the bills.

**SEN. JOHN COBB** said he had a motion to HB 2 that if the money that funds the resource test can't be eliminated or reduced unless it is certified that it is within the budget in the division. He was worried about a cost overrun in case Medicaid starts growing. He wondered about the affect of that. **Ms. Dalton** said it would be a financial challenge to try to delay the assets test based on what the rest of the Medicaid budget is doing. **SEN. COBB** said that the amendment said a decision would have to be made at the discretion of the department. **Ms. Dalton** said she would be more comfortable with moving the poverty level to 160 percent. She said according to census figures, they should be full but they have 250 children on a waiting list for CHIP. She didn't know when they will run out. If the assets test comes in, the first year 1400 kids should come off CHIP and go onto Medicaid. She said if she did not have authority to go above 150 percent, she didn't know if there were 1400 more kids out there or not at 150 percent of poverty. **SEN. COBB** said he didn't think Medicaid asked for enough money; an error was made on the Medicaid growth rates. He was concerned and thought it was \$2 million short. He said it would be cutting on one hand and increasing on the other. **Ms. Dalton** assured him that there was no reason for concern as long as kids were coming in at 150 percent, whether the authority was given to raise the poverty level until there are open slots. It would not make sense to bring kids in at a higher income level if she had a waiting list at the lower level. **SEN. COBB** had a concern about huge demand and then not having enough money for Medicaid kids. **Ms. Dalton** said that when there was an uninsured rate of 19.6 percent, the demand will be there for a long time.

**Vote:** Motion **AMENDMENT (SB033901.ajm)** carried unanimously.

**SEN. TOM BECK** said that maybe there was a tie to the assets test. He said that in HB 2 there was still \$200,000 to 300,000 left in the second year for the program. He asked if the bill (on the assets test) should come back out. **CHAIRMAN KEENAN** expressed his concern that should the assets test be eliminated there was some rolling number, possibly 2500, that would be eligible for Medicaid. It would take 700 kids off CHIP. There is a concern of running short of Medicaid money, and that would be expansion of Medicaid. He said he had an amendment to take the assets test money and restore the money to the agricultural heritage in the first year of the biennium and the rest in the second biennium for the DD providers. **SEN. WATERMAN** maintained that **REP. DAVE LEWIS** fought to keep the assets test money in the budget as it went through appropriations and the House floor, believing in the need to reorganize welfare offices. Welfare rolls two years ago were 12,000. There are now 4500 with the same staff. She thought that reorganization cannot be accomplished until the paperwork is reduced in that division. By removing the assets test, face to face interviews and paperwork are reduced. She said it was the intention of **REP. LEWIS** to make changes in the welfare system in the next session that would allow reduction of FTE or at least reorganization of those offices. She agreed that it needed to be done in two steps. She thought SB 338 was a good government proposal and 2500 working Montanans could be insured for the same amount of money that 1200 kids could be insured for. Her fear was that CHIP funding or eligibility would not increase and the assets test would not be removed thereby not increasing insurance coverage for anyone. **SEN. COBB** said if the committee wanted to do the resource test, he thought they should put up the money and just do it. He thought they had agreed to leave the percent of poverty at 150 percent and eliminate the resource test. **SEN. WATERMAN** said that it was agreed not to put more money into CHIP. **SEN. COBB** restated his view. He said the argument was whether to expand one program at the expense of another. He wanted to leave the percentage at 150 and see what happens to the resource test.

**Vote:** Motion that **SB 338 DO PASS AS AMENDED** carried 17-1 with **Waterman** voting no.

#### **EXECUTIVE ACTION ON SB 176**

**SEN. WALTER McNUTT, SD 50, Sidney**, passed out a booklet of the findings and recommendations of the Court Funding and Structure Committee. **EXHIBIT(fcs64b02)** He pointed out pages 13 and 14 dealing with the sources of funding and expenditures to revise district court funding.

**Discussion:**

**SEN. CHRISTIAENS** said a concern of the committee was with juvenile placements. He said at least one county had gotten into severe problems. He said it was unclear with the bill as amended, as to whether or not there were parameters and safeguards to say that a judge would be prudent in placements if funding was revised. **SEN. McNUTT** said with the amendments on page 11 line 20, juvenile expenses would be paid out the same as they were paid out in 1998 and 1999. Regarding juvenile proceedings, involuntary commitment expenses, and district court expenses associated with civil jury trials, the base years of 1998 or 1999 were used for the amount of money that would be available. In the next biennium they may come back and say that was not enough. **SEN. WATERMAN** did not read that to say the dollar amount but rather the categories of expenses that were paid. She understood the bill to say that if the district court was paying for those categories in 1998 and 1999, the state would pay for those categories in the next biennium. She questioned whether district judges would place kids regardless of cost because the state would pick up the tab. She did not see it as a fixed dollar amount but an expense category. **Judy Paynter, DOR,** addressed **SEN. WATERMAN's** concern. She stated that district court budgets were not crystal clear and that judges do not always have the same concern for money as those that work in finance. She said there were some constraints in the bill when taken as a whole. There would be a limited appropriation and non-court variable costs are allocated to each court in the same proportion to that appropriation as they had in 1999. A judicial council made up of judges could take the variable district court costs and decide which courts have problems and allocate. There are some self-governing controls. Regarding the concern of judges charging more than they would have if they county was paying, language was put in trying to make it clear that there were limits. **SEN. WATERMAN** agreed that there were built in limits for court costs and employees, but her concern was with judges committing someone to Warm Springs or a juvenile to a residential placement possibly out of state. She did not see in the bill where the council of judges would have any control. She interpreted that if counties paid the expenses for placements in 1998 and 1999, that the state would pay them in the future. She did not see anything in the bill saying they would have to live within the budget. **{Tape : 1; Side : B}** **Ms. Paynter** agreed saying that if they decided not to live within that budget, there was a possibility of a supplemental in the next session. **SEN. WATERMAN** said that presently, with the pilot projects, with juvenile justice and with mental health commitments there is a disincentive for counties to place out of state because they are responsible for that cost. She felt the language in the bill

removed the disincentive. She did not feel that was affordable. **Ms. Paynter** said if there was a better way to set those limits in the bill, it would be welcome. **SEN. WATERMAN** said one way would be for juveniles to be committed to the department with the department deciding on placement. **VICE-CHAIRMAN KEN MILLER** commented that there was a need to pass the bill through against a time frame, and wondered how the sponsor might address some of the concerns. **SEN. McNUTT** said he did not know how to address the concerns at the moment, but did know that the bill was to be coordinated with HB 124. He wanted to keep the bill alive and keep working on it.

**SEN. ROYAL JOHNSON** commented on the objective of moving all Montana governments toward the vision contained in SB 184. He wondered how the bill makes a partnership between governments. It seemed to him that some governments were going to make decisions and some were going to pay for those decisions. He thought district judges would make decisions and state government would pay for them. He wasn't sure that kind of money was available. He was concerned with having no control. He said it did not sound like much of a partnership. **SEN. McNUTT** disagreed. **SEN. WATERMAN** thought it was an important bill and said she was not trying to kill the bill. She suggested that the bill move forward but that the issue should be resolved before the bill passes all the way through. Her concern was about a large supplemental in the next session.

**SEN. BECK** asked why it was not in the bill that the county would assume those expenses if they were over the limit. **Gordon Morris, MACO**, replied that the bill was part of a package. The Interim District Court Funding and Structure Study Proposal is tied to the funding mechanism that they requested the interim Local Government Funding and Structure Committee to come up with. He said that if counties are assuming to get rid of financial responsibility in terms of the transfer to the state and then end up with the assumption that if money appropriated is insufficient, that counties will pick up the costs. He said that did not square with what they actually intended. He said there was a lot of work that needed to be done on the section. His choice would be to use Section 3-5-901 in HB 124. He recognized that there would be significant instructions to be put into both bills to get them coordinated. He explained the fiscal note and concluded that revenue would be sufficient to pay for the costs.

**Ms. Paynter** explained that originally some employees that do some work other than district court chargeable work were all going to be paid by the state. In the Judiciary committee it was worked out that those employees would stay as county employees, and state would reimburse the county for district court work. That

put the state in the position of having to trust that the county would not contract elaborately. If the counties wanted to double salaries, the state would not have to pay above the current level. Language was put in the bill to control that. **SEN. WATERMAN** suggested moving forward on the bill, but the issue of juvenile placements needed to be clarified.

**Motion:** **SEN. WATERMAN** moved that **SB 176 DO PASS**.

**SEN. BECK** declared that he thought the bill was tabled. **VICE-CHAIRMAN MILLER** said it was, but had been reconsidered.

**SEN. CHRISTIAENS** asked what happened to the 1 percent local option tax that counties were able to use to fund their court system. He said not all counties utilized that and he wondered what happens to that in the context of the bill. **Ms. Paynter** clarified that some counties have been using that to fund district courts. That revenue would stay at the local level, but that particular money would not be spent on district courts. **SEN. CHRISTIAENS** said it was his understanding the money would be used for district courts and it seemed to him that money would go away if the bill passes. If not, since it was specific to the district court, he wondered why not. **Ms. Paynter** believed the language was the money "may be used" for the district court but counties did not have to. Some did and others did not. It would become a revenue source that counties could use.

**Vote:** Motion **SB 176** passed 15-3 with Cobb, Johnson, and Mohl voting no.

#### **EXECUTIVE ACTION ON SB 289**

**Motion:** **SEN. JON TESTER** made a motion to reconsider action on **SB 289**.

**SEN. TESTER** announced that he had an amendment (SB029002.ash) prepared for **SB 289**. He explained that the amendment would make the bill apply only to new hires which would lower the fiscal note. He asked that the bill be reconsidered for the purpose of adding the amendment.

#### **Discussion:**

**SEN. CHRISTIAENS** asked if the money would come from the insurance premium tax for fire insurance that is collected by the Insurance Commissioner's office. **SEN. TESTER** said it would come from the general fund from the fire insurance premium fund that was de-earmarked and put into the general fund. He said there was

plenty of money generated from the fees put on fire insurance to pay for the bill, but since it was de-marked there was no way to account for it.

**Vote:** Motion carried 10-8 with Beck, Johnson, Keenan, Mohl, Nelson, Tash, Wells, and Zook voting no.

**Motion:** SEN. TESTER moved that SB 289 DO PASS.

**Motion:** SEN. TESTER moved AMENDMENT TO SB 289 (SB028902.ash) BE ADOPTED. **EXHIBIT**(fcs64b03)

**Vote:** Motion that AMENDMENT (SB02902.ash) TO SB 289 BE ADOPTED passed 17-1 with Johnson voting no.

**Vote:** Motion that SB 289 DO PASS AS AMENDED carried 13-5 with Johnson, Keenan, Mohl, Nelson, and Zook voting no.

#### EXECUTIVE ACTION ON SB 500

**Motion:** SEN. CHRISTIAENS moved that SB 500 DO PASS.

**Motion:** SEN. TOM ZOOK moved a SUBSTITUTE MOTION TO POSTPONE SB 500 INDEFINITELY.

#### Discussion:

SEN. CHRISTIAENS acknowledged that the committee might not want to take action on the bill in current form, but wondered about opportunities for the Senate to deal with school funding. It seemed to him many people worked many hours on the bill. He thought if more work needed to be done, the bill needed positive action and not indefinite postponement. SEN. DEBBIE SHEA asked if there was another bill that would need a vehicle. She wanted to work with the bill. **{Tape : 2; Side : A} VICE-CHAIRMAN MILLER** said he would support SEN. ZOOK's motion. He said other bills were coming across from the House. He thought there would be opportunity for the Senate to have plenty of input on the issue. He had a problem with the policy of the bill and thought it complicated rather than simplified. He said SEN. BILL GLASER had put a lot of work into the bill and he understood the material unlike most members. He said one issue was that appropriation bills should start in the House. He thought there would be lots of opportunities for the Senate to participate and did not think SB 500 was the bill for that.



**SEN. SHEA** asked about a House bill. **SEN. ZOOK** said it was HB 121. **SEN. SHEA** asked if HB 121 included a flex plan. **VICE-CHAIRMAN MILLER** thought a flex plan could easily be put into HB 2. **SEN. SHEA** asked about the money involved in HB 121. **VICE-CHAIRMAN MILLER** said it was about \$21 million. **CHAIRMAN KEENAN** explained that HB 121 was headed to the House floor and that it put money into the first year. **SEN. SHEA** said she did not understand why SB 500 was more complex. She wondered if it was because of the flex plan. **SEN. MILLER** it was more than that but included the flex plan and some university funding issues. He liked that SB 500 was thinking outside the box and admitted that HB 121 was similar to what was done in the past. **SEN. SHEA** commented that would be a statement rather than anything else. HB 121 would be the "same old, same old" without anything creative going on in terms of education. **SEN. MILLER** said that was probably accurate.

**SEN. COBB** said that **SEN. WATERMAN's** amendment killed the flex plan by saying no money comes in beyond a certain amount. He said one of the problems was the Finance Committee deals with the general fund budget. The discussion in the Education Committee was about other taxes coming in. He thought the Governor's \$20 million could be put in. That would be an easy amendment. The other \$20 million would go in if the other taxes come in. If SB 119 and SB 439 don't pass, then it would at least be contingent. SB 500 was looking at long term fixes instead of the status quo. Tax policy was being considered. He thought an amendment could be put on the bill that if extra money comes in with the taxes, that they could have it. The bill was contingent upon the tax bills or money coming from other sources. He thought the bill should be amended to \$20 million and contingencies put on for the tax bills.

**SEN. JACK WELLS** served on the Education Committee and thought SB 500 was a good bill. The bill was proposed at the \$25 million level. It had potential and flexibility. He stated he would not vote for tax increases of any kind. He was not pleased with establishing an education bill based on finding more tax money. He said the committee had killed a lot of kinds of bills based on lack of funding and for a lot less money. He said it came down to it at the last of every session how much would be put in education. He thought it should be addressed at the first part of the session. He believed HB 121 had about the right level of funding, with the possibility of more. He didn't see the advantage of sending a Senate bill to the House with a House bill coming to the Senate, trying to blend the two together and deciding which one to go with in the time left. He thought the Appropriations Committee in the House had done a good job. He

said it would boil down to one final dollar figure anyway an he favored **SEN. ZOOK's** motion.

**SEN. BEA MCCARTHY** said she had not served on the Education Subcommittee. She commented that Education is treated like a stepchild. Corrections is funded first. She admired the Education Committee for coming up with something new and innovative. She thought an educational system was necessary for economic development and was in favor of whatever could be done to keep SB 500 alive.

**SEN. SHEA** stated that she thought everyone came to the Legislature to participate in the process. She said the effort the committee put in on SB 500 was not partisan. She said if the Finance Committee wanted the bill to go through, that the objectionable parts could be amended out. She thought it was a shame it was not the vehicle. She wished that it could be worked out to do something positive for education.

**SEN. COBB** suggested that in the future an Education Committee would not be needed. They should not even do the education bills and schedules and the process could start in Appropriations or Taxation and never go to Education. He said it hadn't worked the way it was done.

**SEN. CHRISTIAENS** agreed that education should be funded in the first three weeks of the session. He believed if the political will was there to do something, the job generally gets done. He said he sat on the Institutions Subcommittee and found it extremely painful. He didn't want to sit on that committee again this session because he thought others needed to learn that budget. He said the Corrections budget had a number of cuts but \$17 million in additional funding. He found it painful that it was a "kids vs. cons" situation. He suggested that if money was put into education, it would not be necessary to build hard cells. He declared that teachers could identify kids by age 5 that would be in trouble. If funding is not done correctly, hard cells would continue to be built. He wanted to see the bill kept alive because he liked the flex idea. He thought it was innovative and a move in the right direction for funding education. He realized his vote probably wouldn't count.

**SEN. WATERMAN** remarked that **SEN. GLASER** taught the new members about the foundation formula, how it works, and how to effect change through that. She said that was the reason for the wide variety of bills that were introduced by people on that committee. She said some good proposals were brought in, and **SEN. GLASER** melded them together into a bill. He told them they were there because of kids. She thought it unfortunate that the

closing chapter on the issue was not about kids, but about power and about politics.

**SEN. MILLER** thought there had been some things said that were very unfortunate. He said it was not about power or about politics and was about kids. He agreed that the majority party had the votes for the last eight years, and stated that they have funded education at the highest level of increase ever; they have increased teachers salaries on an average of nearly 2 ½ percent consistently over the last few years. He said they have funded education well above the ANB, which continues to go down. He expressed frustration and said there would be the ability to fund whatever education bill comes out. Senators will sit on the conference committee and have input at the end. He said the education community claims to have a great educational system, with great kids and great teachers. He felt that was because education had been funded at an efficient level. Some would think it too much and some would think it too little. He addressed the issue of "cons vs. kids". He said that was not what the issue was about. He said it was about a funding level and local control. He said it was all the same taxpayers. He said what they were trying to do was achieve more local control and more local responsibility. He said it was about kids and education would be funded. Montana would still have the best even without the additional funding in HB 121.

**SEN. ZOOK** said **SEN. CHRISTIAENS** had a good point about the Corrections budget. **SEN. CHRISTIAENS** and other members of the subcommittee tried to trim the budget in the Corrections section. The last status sheet showed a structural imbalance. He said it was not a big figure yet. Some members of the Education Committee were familiar with that also, yet decided to put an amount of money that was practically double of what was in most school funding bills. He thought that was irresponsible knowing the situation and basing it on a supposed tax measure. He thought other funding measures were available for funding on a short term basis. He said the formula situation was not good in declining enrollments, but the legislature continued to put more money in during the special session and regular session last time. There is another vehicle available if people wanted to get off the politics of it and vote for **REP. GAY ANN MASOLA's** bill. He said he knew how hard **SEN. GLASER** worked on the bill, but people need to be responsible. He was sorry it had to happen this way.

**CHAIRMAN. KEENAN** said a lot of money was spent in Human Services and Corrections. He said when a meth lab is busted 2 blocks from a junior high school, everybody wants those people in prison. That costs money. A billion dollars a biennium is spent on

education. He said schools were supposed to solve the economic downturn. He said we have great schools and yet an economic downturn. He said it wasn't Republicans that raided the school trust fund in the mid-80s and depleted that. Now Republicans are being accused of doing that with coal tax money. If there is a crisis, he wondered what was wrong with a one-time coal tax infusion of \$40 million in the next biennium. It was hard for him to believe there was a crisis when there was money available.

**SEN. SHEA** said he was talking to the wrong people. The coal tax issue was in the House.

**Vote:** Motion **SB 500 BE INDEFINITELY POSTPONED** carried 10-8 with **Christiaens, Cobb, Jergeson, McCarthy, Nelson, Shea, Tester, and Waterman** voting no.

**SEN. GREG JERGESON** commented that a motion to indefinitely postpone is not just another term for motion to table but is debatable. A motion to postpone is often synonymous with a motion of do not pass which would constitute an adverse committee report. He asked if the chairman intended to issue an adverse committee report on the floor of the Senate on adoption of the motion to indefinitely postpone. **CHAIRMAN KEENAN** said he would research the question and do whatever Greg Petesch says needs to be done. He said the committee report would probably not be ready until the next afternoon. **SEN. COBB** asked if it would not be easier to bring it back as already tabled.

#### ADJOURNMENT

Adjournment: 6:45 P.M.

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SEN. BOB KEENAN, Chairman

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PRUDENCE GILDROY, Secretary

BK/PG

**EXHIBIT (fcs64bad)**